

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DOUGLAS HANDSHOE

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PLAINTIFF

v.

Civil No. 1:15cv382-HSO-JCG

VAUGHN PERRET, *et al.*

DEFENDANTS

**ORDER GRANTING PLAINTIFF DOUGLAS HANDSHOE'S
[331] MOTION TO CONFIRM DEFAULT JUDGMENT**

BEFORE THE COURT is a pro se Motion [331] to Confirm Default Judgment against Defendants Progress Media Group Limited of Nova Scotia and Marilyn Smulders filed on January 4, 2019, by Plaintiff Douglas Handshoe. Having reviewed the Motion [331], the record, and relevant legal authority, the Court concludes Handshoe's Motion [331] should be granted and a default judgment should be entered against Defendants Progress Media Group Limited of Nova Scotia and Marilyn Smulders.

I. BACKGROUND

Plaintiff Douglas Handshoe ("Handshoe") initiated this action by filing a Complaint [1] on November 16, 2015. Plaintiff has filed three amended pleadings since that time. Handshoe's only remaining claim in this case is one set forth in Count 3 of the Third Amended Complaint against Defendants Progress Media Group Limited of Nova Scotia ("Progress Media") and Marilyn Smulders

(“Smulders”) for alleged misrepresentation under 17 U.S.C. § 512(f). *See* 3d Am. Compl. [90] at 36-38. Both Progress Media and Smulders are in default, *see* Clerk’s Entry of Default [150] at 1, and neither has entered an appearance or taken any action to set aside the default.

Handshoe now seeks a default judgment against Progress Media and Smulders. *See* Mot. [331] at 1. Handshoe has submitted a Declaration [332] and attached exhibits in support of his Motion [331]. Handshoe “seek[s] the nominal sum of One Dollar (\$1.00) to compensate me for the time spent, reputation loss [sic] and for harm to my first amendment rights.” Decl. of Douglas Handshoe [332] at 7. Progress Media and Smulders have not responded or otherwise objected to default judgment being entered.

II. DISCUSSION

Federal Rule of Civil Procedure 55(b)(2) permits the Court to enter a default judgment against a party who is in default for failure to plead or otherwise defend. *See* Fed. R. Civ. P. 55(b)(2). Handshoe’s remaining claim against Progress Media and Smulders arises out of an alleged misrepresentation made on December 18, 2012, under the Digital Millennium Copyright Act (“DMCA”), 17 U.S.C. § 512(f). *See* 3d Am. Compl. [90] at 15, 36-38. Because Progress Media and Smulders are in default, *see* Clerk’s Entry of Default [150] at 1, and neither has taken any action to set aside default or otherwise objected to the entry of default judgment, the Court will grant Handshoe’s request for default judgment. The Court will award

Handshoe a judgment of \$1.00 in nominal damages as to Count 3 of the Third Amended Complaint [90].

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Motion [331] to Confirm Default Judgment filed on January 4, 2019, by Plaintiff Douglas Handshoe is **GRANTED**. The Court will enter a separate Default Judgment.

SO ORDERED AND ADJUDGED, this the 24th day of January, 2019.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE